SENATE JOINT RESOLUTION 142

By Finney R.

A RESOLUTION urging the United States Congress, the Department of Health and Human Services, and the Food and Drug Administration to limit, ban, or otherwise impose strict standards on direct-to-consumer advertising of drugs by pharmaceutical companies.

WHEREAS, the United States is the only English-speaking country that allows pharmaceutical companies to advertise their prescription drug products directly to consumers; and

WHEREAS, in 1997, the federal Food and Drug Administration (FDA) relaxed restrictions on the content of direct-to-consumer prescription drug advertising, withdrawing the prior requirement for a summary of side-effect and adverse reaction information and replacing it with a requirement for a statement about “major risks” but not “all” risks; and

WHEREAS, the short “major risk” statement made television and radio advertisements about prescription drugs more practicable; and

WHEREAS, pharmaceutical companies spent $4.7 billion on direct-to-consumer advertising in 2005, up from $2.7 billion in 2001 and $220 million in 1996; and

WHEREAS, while total annual U.S. health care spending is projected to increase by an average of 7.2% annually ($2.887 trillion in 2010, up from $2.170 trillion in 2006), total prescription drug expenditures are expected to increase 18-20% annually ($299 billion in 2010, up from $188 billion in 2004); and

WHEREAS, Tennessee has the highest use for prescription drugs at 17.33 prescriptions per capita; and

WHEREAS, Tennessee has the second highest per capita prescription drug spending at $1,192.56; and

WHEREAS, numerous studies have linked the increased direct-to-consumer advertising to the exponential growth in prescription drug expenditures; and

WHEREAS, surveys suggest that 50 percent of the public believe that direct-to-consumer advertisements of prescription drugs must be submitted to the government for prior approval, 43 percent believe that only “completely safe” drugs may be advertised directly to consumers, 22 percent believe that advertising of drugs with serious side effects has been banned, and 21 percent believe that only “extremely effective” drugs may be advertised directly to consumers; and yet all of these beliefs are untrue; and

WHEREAS, consumers with these mistaken assumptions are placing pressure on their prescribers to prescribe these drugs, causing some patients to become upset if prescribers refuse to prescribe the drug, even if the drug is medically unnecessary or contraindicated; become upset if the prescribers urge low-fat diets, stress management, or allergen avoidance as lifestyle alternatives to pharmacological therapy; and question the prescriber’s trust and the overall patient/prescriber relationship; and

WHEREAS, direct-to-consumer advertising is having a harmful effect on the role of prescribers and on prescriber morale by accelerating an advance toward patient autonomy, supplanting beneficence as the guiding ethical principle of medical practice with acquiescence to the partially informed patients’ insistence on a course of drug therapy treatment suggested in misleading or misdirected advertising; and

WHEREAS, a 1997 study of family physicians revealed that 80 percent believed that direct-to-consumer advertising was “not a good idea”; and

WHEREAS, a 2002 survey of pediatricians, conducted by the American Academy of Pediatrics, found that 82 percent of the respondents felt some pressure to prescribe drugs that had been requested by their patients who had seen advertisements about the drugs, 53 percent felt that direct-to-consumer advertising of drugs diminished the doctor-patient relationship, 60 percent felt that there is insufficient time in office visits to explain or interpret direct-to-consumer advertising, and 71 percent felt that direct-to-consumer advertising failed to lead to better treatment choices and care; and

WHEREAS, in 2006, there were 1.5 million reports of Adverse Drug Events (ADE's), which ranged from the need for medical intervention to prevent permanent impairment or death to disability and death; and

WHEREAS, studies, including those performed by the Food and Drug Administration, conclude a continuous rise in ADE's since 1995; and

WHEREAS, ADE's cost Tennessee hospitals up to $761 million annually; and

WHEREAS, the federal Food and Drug Administration (FDA) has begun a review of the policy that unleashed an explosive growth of prescription drug advertising; and

WHEREAS, the United States General Accounting Office has found that the Department of Health and Human Services does not timely investigate and respond to complaints about direct-to-consumer advertising of prescription drugs; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED FIFTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE HOUSE OF REPRESENTATIVES CONCURRING, that the General Assembly of the State of Tennessee urges the United State Congress and the Department of Health and Human Services to recognize the problems caused by direct-to-consumer advertising of prescription drugs by pharmaceutical companies.

BE IT FURTHER RESOLVED, that this body urges Congress, the Department of Health and Human Services, and the Food and Drug Administration to further study the effects of direct-to-consumer advertising of prescription drugs by pharmaceutical companies on the health care system, on the prescriber/patient relationship, on the quality of care received by patients, and on the increasing costs of prescription medications, and to take action to limit the detrimental affects of this advertising.

BE IT FURTHER RESOLVED, that this body also urges the Food and Drug Administration to aggressively monitor and regulate direct-to-consumer advertising of prescription drugs by pharmaceutical companies, pending Congressional action to limit, ban, or place increased restrictions on such advertising.

BE IT FURTHER RESOLVED, that this body urges the United States Congress to limit or ban direct-to-consumer advertising of prescription drugs by pharmaceutical companies, or alternatively, to require that advertisements:

(1) Remind consumers that prescribers and pharmacists are the best sources of information about appropriate medical treatment and drug therapy;

(2) Explicitly state the success and failure rates of drugs and compare them with other common products and “no treatment”;

(3) Mention alternate treatments by name and class; and

(4) Refer consumers to independent sources of drug information.

BE IT FURTHER RESOLVED, that the Chief Clerk of the Senate is directed to transmit appropriate copies of this resolution to the Secretary of the United States Department of Health and Human Services, the Director of the Food and Drug Administration, and to each member of the Tennessee Congressional delegation.